

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of

Review of the Emergency Alert System

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EB Docket No. 04-296

**COMMENTS OF  
TELECOMMUNICATIONS FOR THE DEAF AND HARD OF HEARING, INC.  
ASSOCIATION OF LATE-DEAFENED ADULTS;  
DEAF & HARD OF HEARING CONSUMER ADVOCACY NETWORK;  
NATIONAL ASSOCIATION OF THE DEAF; AND  
HEARING LOSS ASSOCIATION OF AMERICA**

Telecommunications for the Deaf and Hard of Hearing, Inc. (“TDI”), through its undersigned counsel; Association of Late-Deafened Adults (“ALDA”); Deaf & Hard of Hearing Consumer Advocacy Network (“DHHCAN”); National Association of the Deaf (“NAD”); and Hearing Loss Association of America (“HLAA”, collectively, “Commenters”) hereby submit their Comments in response to the Federal Communications Commission’s (the “Commission”) Further Notice of Proposed Rulemaking (“FNPRM”) in the above-referenced proceeding.<sup>1</sup>

**I. INTRODUCTION**

TDI is a national advocacy organization actively engaged in representing the interests of the roughly thirty-one (31) million Americans who are deaf, hard of hearing, late-deafened, and deaf-blind. TDI’s mission is to promote equal access to broadband, media and telecommunications for the aforementioned constituency groups through consumer education and involvement, technical assistance and consulting, application of existing and emerging

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<sup>1</sup> *In the Matter of Review of the Emergency Alert System*, First Report and Order and Further Notice of Proposed Rulemaking, EB Docket No. 04-296 (rel. Nov. 10, 2005).

technologies, networking and collaboration, uniformity of standards, and national policy development and advocacy.

Formed in Chicago, Illinois in 1987, ALDA works collaboratively with other organizations around the world serving the needs of late-deafened people. Through its chapters and groups around the country, ALDA promotes public and private programs designed to alleviate the problems of late-deafness and for reintegrating late-deafened adults into all aspects of society. ALDA also provides educational information concerning issues affecting late-deafened adults, as well as advocacy on behalf of, and support for, late-deafened adults and their families and friends.

Established in 1993, DHHCAN serves as the national coalition of organizations representing the interests of deaf and/or hard of hearing citizens in public policy and legislative issues relating to rights, quality of life, equal access, and self-representation. DHHCAN also provides a forum for proactive discussion on issues of importance and movement toward universal, barrier-free access with emphasis on quality, certification, and standards.

Established in 1880, NAD is the nation's oldest and largest consumer-based national advocacy organization safeguarding the civil and accessibility rights of deaf and hard of hearing individuals in the United States of America. Policy and legislative issues addressed by NAD cover a broad range of areas, including education, employment, health care, human services, rehabilitation, telecommunications, and transportation.

HLAA (formerly SHHH), is the nation's foremost consumer organization representing people with hearing loss. HLAA's national support network includes an office in the Washington D.C. area, 13 state organizations and 250 local chapters. HLAA's mission is to open the world of communication to people with hearing loss through information, education, advocacy, and support. HLAA provides cutting edge information to consumers, professionals

and family members through its website, [www.hearingloss.org](http://www.hearingloss.org), its award-winning publication, *Hearing Loss*, and hearing accessible national and regional conventions. HLAA impacts accessibility, public policy, research, public awareness, and service delivery related to hearing loss on a national and global level.

## **II. COMMENTS**

In the FNPRM, the Commission seeks specific comments on what actions it should take to help expedite the development of a more comprehensive Emergency Alert System (“EAS”). Most notably, the Commission seeks comment on what it can do to facilitate the development of a more effective, comprehensive, digital public alert and warning system. Commenters applaud the Commission’s efforts to improve the EAS and herein address specific issues related to individuals who are deaf or hard of hearing that the Commission should consider when issuing its final rules on the EAS.

### **A. Issues Specific to Particular Technologies**

For wireless products, the Commission seeks comment on what further steps should the Commission take to facilitate wireless provision of alerts and warnings, and whether the Commission should require wireless carriers to provide alerts and warnings.<sup>2</sup> Commenters urge the Commission to facilitate wireless provision of EAS and require wireless carriers to provide alerts and warnings. The Commission should not assume that the majority of the public will be at home watching television when an emergency occurs. For deaf and hard of hearing individuals, television is not enough, as that platform relies solely on closed captioning to reach this very large constituency. Many people with temporary hearing loss or new to hearing loss are unfamiliar with closed captioning and how to activate this feature. By requiring wireless carriers to provide alerts and warnings along with television, a greater percentage of the public will receive these alerts.

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<sup>2</sup> FNPRM at ¶ 69.

Wireless alerts also provide an opportunity for much-needed redundancy when there are power outages. The EAS has to take into account an increasingly mobile society and build the infrastructure to notify the public accordingly. Commenters believe that wireless handsets and the technology of wireless networks have improved significantly over the past five years, thereby allowing for the distribution of text-based messages (SMS) through the applicable service providers in the event of an emergency. Moreover, text messages are increasingly popular in the United States and are a viable mechanism for customers to receive alerts from EAS. As a result, most customers will not have to upgrade or purchase new handsets. However, to the extent that a small percentage of wireless users do not have handsets capable of receiving text-based messages, Commenters believe that the potential benefits of owning handset models capable of receiving text-based messages (including public alerts and warnings) clearly outweigh the potential costs for consumers to purchase or upgrade to these models.

The Commission also seeks comment on whether telephone companies should have public alert and warning responsibilities similar to those of other news and entertainment providers.<sup>3</sup> Commenters strongly believe that the responsibility to provide public alerts and warnings should be equal among telephone companies, news and entertainment providers, and other parties who may be well positioned to disseminate such warnings in the event of an emergency. Furthermore, Commenters urge the Commission to establish rules and regulations that require telephone companies (both fixed and mobile carriers) to provide public alert and warning systems similar to those imposed on broadcast cable and satellite TV providers. As the Commission has noted, some telephone providers now offer television/video services in competition with cable and satellite providers.<sup>4</sup> Over time, more consumers will likely utilize the television programming services

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<sup>3</sup> *Id.* at ¶ 70.

<sup>4</sup> *See id.* at ¶ 70, n. 207. Along with Verizon, SBC and Qwest have launched television/video programming services through their high-speed networks in select metropolitan areas, with plans to expand their video services in

offered by these telephone companies. As a result, the Commission should issue rules making applicable EAS obligations on telephone companies which ensure that the largest possible number of consumers are alerted in case of an emergency. By requiring telephone companies to provide public alert and warning systems now, the Commission will ensure uniform coverage for all consumers, regardless of whether they have a hearing loss or not. Commenters are not aware of any valid policy considerations that the Commission should consider that demonstrate why EAS rules are not applicable for telephone companies.

## **B. Accessibility to Persons With Disabilities**

In the *FNPRM*, the Commission seeks comment on how it can make EAS alerts more accessible to people with disabilities.<sup>5</sup> Commenters applaud the Commission's efforts to ensure that this very large segment of the population has full access to EAS messages. In creating the new rules, Commenters urge the Commission to be as expansive as possible in order to protect deaf and hard of hearing individuals. Commenters urge the Commission to ensure that the EAS requirements adopted are as equally accessible to people who are deaf and hard-of hearing as they are to the rest of the general public. To accomplish this, Commenters strive for a comprehensive EAS that uses a broad scope of communicative devices on as many platforms as possible including television, captioned radios, Internet, pagers, wireless/mobile phones and PDAs. Commenters also believe that there should be consistent and uniform emergency information that is broadcast on all the platforms.<sup>6</sup> Commenters further stress that the alerting EAS message should be given top priority to appear first before any routing information (list of counties, cities, etc.). Furthermore,

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markets throughout the country.

<sup>5</sup> See *FNPRM* at ¶ 74 - 81.

<sup>6</sup> Unlike voice messages which can pass through any type of device (wireless or landline), sending messages by text occurs in several ways-neither of which are interoperable with each other. TTYs communicate exclusively with TTYs. Facsimile machines with other fax machines and programs. E-mail remains e-mail. Short messaging services stay within its own network and does not cross over to other networks. Television captioning usually remains on television or video devices. Unless some new interoperable technologies come to the market, at least five separate text protocols and networks would need to be implemented.

future generations of EAS should be capable of providing warnings below the city/county level down to the postal ZIP code level.

Commenters applaud the Commission's effort to encourage EAS message originators such as the Federal Emergency Management Agency ("FEMA") and state emergency operations centers to provide EAS messages in both audio and visual formats to make EAS messages fully accessible to individuals with hearing and visual disabilities.<sup>7</sup> The Commission also seeks comment on whether it should revise the EAS rules to require all video programming distributors subject to Part 11 of the Commission's rules to provide the same information in both the visual and aural versions of all EAS messages, instead of the header code or information as required by 47 C.F.R. §79.2.<sup>8</sup> Commenters believe that both audio and visual formats are equally important and should contain the same information, not only for people with full visual and hearing capabilities, but especially for individuals who are deaf and hard of hearing. Moreover, Commenters stress that both formats (visual and audio) should be required at all times in order to provide functional equivalency. The Commission must ensure that the same emergency information and critical details are transmitted under both formats.

The Commission also seeks comment on whether parties subject to the EAS rules should be required to make an audio EAS message accessible to those with hearing disabilities by using a transcription of the audio message through the use of closed captioning or other methods of visual presentation.<sup>9</sup> Commenters believe that to ensure that those with hearing loss have immediate access to complete information in an emergency situation, all parties subject to the EAS rules must provide a transcription of the audio message in real-time, utilizing open captions. Commenters strongly recommend that open captions should be required to transmit emergency messages since it

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<sup>7</sup> See *id.* at ¶ 78.

<sup>8</sup> *Id.* at ¶ 79.

<sup>9</sup> See *id.*

can be read on all devices. In contrast, closed captioning is limited because many consumers may not be familiar how to configure a particular device to display closed-captioning. During an emergency, the priority should be to disseminate the information to as many people as possible utilizing as many devices as possible. As the Commission has pointed out, there are roughly 31 million adults that have experienced some level of hearing loss.<sup>10</sup> The Commission, through the EAS rules, must ensure that persons who are deaf or hard of hearing have real-time access to accurate emergency information, in the same manner as people without hearing loss.

Commenters believe that requiring open captions on television in real-time will provide accurate information, but will not provide comprehensive EAS coverage, as many deaf and hard of hearing persons have active lifestyles and are not always in front of a television to receive EAS messages.

Therefore, Commenters urge the Commission to extend the obligations of EAS to other technologies and providers to ensure that dissemination of emergency information is not relegated to analog radio and television stations. For example, EAS should be extended to the national Amber Alert system and state/local highway authorities should be required to provide portable electronic signs at target points along highways and major thoroughfares to post emergency notices. The Commission must ensure that digital providers, including cable companies, satellite providers, telephone companies and other alternative providers, are subject to the EAS and the Commission's obligation to provide captioned alerts so that the information can reach people with hearing disabilities (even though such providers are classified as "video programming distributors" under 47 C.F.R. § 79.2). The more technologies that are incorporated into the EAS, including Internet broadcasting, pagers, etc., the better chances that consumers will promptly learn of situations that may affect their lives, their safety or their assets.

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<sup>10</sup> *Id.* at ¶ 74.

The Society of Broadcast Engineers, Inc. (“SBE”) argues that providers do not have the resources to provide a real-time visual message identical to the audio feed.<sup>11</sup> Commenters disagree with SBE’s assertion that such a task would be difficult and expensive and urge the Commission to require all parties subject to the EAS rules to provide a real-time text feed that duplicates the audio portion of an EAS alert. While it may be possible that some television stations and cable companies may not have the resources to rapidly deploy real-time visual messages, Commenters believe that the public benefits for the approximately 31 million people with hearing disabilities clearly outweighs any arguments posed by SBE or any other similarly situated companies. Therefore, the Commission should require broadcasters and companies subject to the EAS rules to make the necessary investments to ensure that this critical information is available in both visual and aural form. Unfortunately, as the Hurricane Katrina disaster revealed, access to real-time accurate information is a crucial and vital tool in saving lives. Commenters further believe that any such cost would be off-set by: (1) the benefits of a comprehensive real-time alert system; and (2) the relevant infrequent use of such system. While it is difficult to forecast the frequency of use of such a system, Commenters believe that this system would not be used on a daily or weekly basis, and outside of the routine testing that would take place, television stations and cable providers would incur very little expense compared to the potential number of lives saved by providing real-time emergency information.

Finally, the Commission seeks comment on how any next-generation, digitally-based alert and warning system can be developed in a manner that assures that persons with disabilities will be given access to alerts and warnings that is equal to other Americans.<sup>12</sup> The Commission also seeks comment on how it can incorporate the existing disability access rules into the development of a

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<sup>11</sup> *Id.* at ¶ 79.

<sup>12</sup> *Id.* at ¶ 80.



more comprehensive EAS.<sup>13</sup> As noted above, Commenters urge the FCC to draft the EAS rules in a technology neutral manner so that they encompass all technologies (existing or future) and assure that people with disabilities are provided the same access as any other American. Moreover, Commenters request that the Commission create an EAS Consumer Advisory Committee on which people with disabilities are effectively represented to advise the Commission regarding the development of the next generation EAS.

### **III. CONCLUSION**

Commenters applaud and support the Commission's efforts to update EAS in order to protect the interests of the public with hearing and speech disabilities. Moreover, Commenters strongly urge the Commission to update EAS in a manner consistent with the recommendations contained herein.

Respectfully submitted,

/s/ Ulises R. Pin

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<sup>13</sup> *Id.*

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